

Article 2.1 Commercial Driver Licenses

Title 13, Division1, Chapter 1

Employer Testing Program

§25.15. Record-Keeping Program.

(a) The employer shall keep records of Employer Testing Program related information on training and testing provided to its certified employee drivers. The employer's records shall include the following:

- (1) The employee's full name, address, and driver license number.
- (2) The type of instruction the driver was given during training.
- (3) The date(s) instruction was given.
- (4) The subjects covered.
- (5) The total hours of instruction.
- (6) The training instructor's full name and address.
- (7) A copy of the instructor's contract with the employer, if applicable.
- (8) The results of any driving test conducted in conjunction with the training.
- (9) The driving test Examiner's name and driver license number.
- (10) Examiner's written contract with the employer.
- (11) Employer Testing Program Examiner Driver Testing Log (DL 819 ETP, New 1/2005) of driving tests conducted; including both passed and failed driving tests. A copy of the Examiner's log must show the past 90 days of certification activity. The Examiner's log shall include the following:

- (A) Examiner Name
- (B) Examiner Driver License Number
- (C) Examiner class of driver license and endorsements
- (D) Examiner address
- (E) Examiner phone number
- (F) Driver name
- (G) Driver's driver license number
- (H) Name of Driver's Employer
- (I) Date of driving test
- (J) Results of the driving test (passed/failed)

~~(11)~~ (12) A copy of the trip permit for any commercial vehicle with special equipment plates used in the driving test, valid for the date(s) of the test.

~~(12)~~ (13) All pass and fail driving test score sheets ETP CDL Pre-Trip Inspection Evaluation Score Sheet/ETP CDL Driving Performance Evaluation Score Sheet (DL65ETP, Rev. 4/03), which is hereby incorporated by reference, used for each employee issued a Certificate of Driving Skill (DL170ETP, Rev. 11/02).

~~(13)~~ (14) A copy of each Certificate of Driving Skill (DL170ETP, Rev. 11/02) issued.

(14 15) Documentation of the department approved primary and alternate driving test routes on the Employer Testing Program Commercial Driving Performance Evaluation Route and Directions (DL814ETP, Rev. 2/03), the Employer Testing Program Commercial DPE Maneuver Checklist (DL807ETP, Rev. 7/02), and route map(s) for each driving test route.

(b) The employer must keep training records, driving test score sheets, employment records, examiner drive test logs, and all other Employer Testing Program related records for the three most recent years of the employer's participation in the Employer Testing Program and for a minimum of three years after the employer number becomes invalid (i.e., expired, cancelled, revoked, or suspended), during each driver's three most recent years of employment, and three years after the driver is released from employment.

(c) The employer shall make available all Employer Testing Program related records pertaining to driver training, testing, and employment, for monitoring by the Federal Motor Carrier Safety Administration, or its representatives, and the department during normal business hours at the record-keeping location identified on the employer's Application (DL520ETP, Rev. 8/02).

(d) At the department's request, the employer shall make records available which verify that:

(1) The Administrator and Authorized Representative are employees at the time of program activity.

(2) The drivers issued a Certificate of Driving Skill (DL170ETP, Rev. 11/02) are its employees at the time of driver training, testing, and certification.

(3) The Examiner is under written contract with the employer at the time of the driving test.

Note: Authority cited: Section 1651, Vehicle Code. Reference: Sections 12804.9 and 15250, Vehicle Code, and Part 383, of Title 49 of the Code of Federal Regulations.

§25.18. Sanctions/Reinstatements.

(a) The department reserves the right to take prompt and appropriate remedial action against the employer, examiners, and/or its certified drivers in the event that they:

(1) Fail to comply with State and/or federal standards for commercial driver license testing in the federal Code of Regulations, Title 49, Part 383, Subpart E, G and H;

(2) Fail to comply with the terms of the Employer Testing Program provisions in the California Code of Regulations, Title 13, Sections 25.06 through 25. 22, and California Vehicle Code Sections 12804.9(e) and 15250 (c) and (d);

(3) Commit a serious offense that affects public safety; or

(4) Commit fraud or other criminal activity related to participation in the Employer Testing Program.

(b) The department will provide a 15-day written notice to the employer before suspending or revoking the employer number. However, the department shall immediately suspend or revoke the employer number if an employer is engaging in practices in such a manner that immediate suspension or revocation is required for the safety of persons on the highway. In reaching a decision on a disciplinary action, the Director of Motor Vehicles or his or her designee shall consider the guidelines entitled "Employer Testing Program Guidelines for Sanctions" (9/3/02, which are hereby incorporated by reference, and any and all other sanctions provided by relevant statutes and regulations. Deviation from these guidelines is appropriate where the Director or his or her designee, in his or her sole discretion, determines that the facts of the particular case warrant such a deviation, for example, the presence of mitigating factors, the age of the case, and evidentiary problems.

- (1) A warning letter may be sent to an employer for minor violations.
 - (2) A first offense of less severity may be a minimum of 30-days suspension.
 - (3) A second offense of the same conduct may be a revocation for not less than 12 months.
 - (4) A serious offense that affects public safety, fraud, and non-compliance with required federal regulations/state statutes, may result in a revocation. A revocation shall be for a period of not less than 12 months.
- (c) In the event the department suspends the employer number, the employer will be prohibited from conducting training, testing, and/or driver certification until verification is made that appropriate action has been taken to correct deficiencies causing the suspension, and the department lifts the suspension.
- (d) Any action to appeal or review any order of the department canceling, suspending, or revoking an employer number shall be brought in a court of competent jurisdiction under Section 1085 of the Code of Civil Procedure, or as otherwise permitted by the laws of this state. The action shall be commenced within 90 days from the effective date of the order.
- (e) An employer who has been suspended may submit an Employer Testing Program Request for Reinstatement Employer Number (DL813ETP, NEW 11/01), which is hereby incorporated by reference, after the period of suspension has ended. The department shall verify that the employer has corrected the deficiencies prior to reinstatement.
- (f) An employer that has had its employer number revoked may submit an original Application, (DL520ETP, Rev. 8/02) with proof of correction of the deficiencies which precipitated the revocation, documentation of primary and alternate driving test routes pursuant to subdivision (a)(2) of Section 25.08 of these regulations, and payment of a non-refundable \$45 Application fee (\$15 per year for three years) for non-governmental employers.
- (g) The department shall provide a 15-day written notice to the employer and the Examiner before the department discontinues the Examiner's eligibility to conduct driving tests when it has been determined that driving tests were not conducted pursuant to Commercial Driver License Driving Performance Evaluation requirements; the Examiner has an action taken against his or her commercial driver license that disqualifies him or her to act as an Examiner (the driver license is suspended, revoked, or cancelled, or the driver is on probation for negligent operation of a motor vehicle); the Examiner failed to conduct a minimum of one driving test for a period of 90 consecutive days, or the Examiner is not available to participate in the monitoring of Employer Testing Program activities.
- (h) The Examiner must meet the provisions of subdivision (a) of Section 25.22 of these regulations prior to being reinstated after discontinuation of eligibility to act as an examiner under subsection (g). An Employer Testing Program Request for Reinstatement – Examiner (DL810ETP, NEW 1/02), which is hereby incorporated by reference, and a ~~\$55~~ \$150 training fee shall be submitted to the department to attend the training. A new Certificate of Training will be issued upon successful class completion.

Note: Authority cited: Section 1651, Vehicle Code. Reference: Sections 12804.9 and 15250, Vehicle Code; Part 383, of Title 49 of the Code of Federal Regulations; Sections 11340.5 and 11425.50(e), Government Code.

§25.19. Employer Roles and Responsibilities.

- (a) The employer shall designate an Administrator, and shall designate one or more Authorized Representative(s) and one or more Examiner(s).
- (1) The Administrator and Authorized Representative may be one and the same person under the same employer number.

- (2) The Administrator may not act as an Examiner under the same employer number.
- (3) The Authorized Representative may be an Examiner under the same employer number, but cannot assume or sign for both responsibilities on the same Certificate of Driving Skill (DL170ETP, Rev. 11/02).
- (b) The employer must ensure that all drivers are provided commercial driver training pursuant to subdivision (b) of Section 25.12 of these regulations prior to certification.
- (c) The employer must enroll each commercial driver under its Employer Pull Notice number after issuance of the Certificate of Driving Skill (DL170ETP, Rev. 11/02), and during the driver's actual term of employment.
- (d) The employer must enroll each Examiner under its Employer Pull Notice number during the employer and Examiner's contract period.
- (e) When the employer receives a pull notice printout that reflects that an action has been taken against the Examiner's California commercial driver license that would disqualify the Examiner from conducting tests for certification purposes under subdivisions (a)(2) and (a)(3) of Section 25.22 of these regulations, the employer must immediately discontinue the Examiner's testing authority. The employer must notify the department of this disqualification within 10 days of receipt of the pull notice printout.
- (f) Upon adoption of these regulations, prior to allowing an Examiner to conduct a commercial driving test, the employer must:
 - (1) Ensure the Examiner is eligible under these regulations to administer driving tests for the specified class of license. An Examiner who has not conducted a driving test for 91 days is not eligible to conduct driving tests until he/she attends and passes a department sponsored Examiner refresher-training course.
 - (2) Enter into a written contract with all new examiners at the time of appointment, and with existing examiners at the time of the employer's first renewal.
- (g) The employer's contract with the Examiner hereinafter referred to as the "Examiner's contract" must contain, at a minimum, the following provisions. The Examiner must:
 - (1) Have held a valid commercial driver license for at least three consecutive years with the appropriate classification and endorsement for new and reinstated examiners.
 - (2) Currently hold a valid California commercial driver license with the appropriate classification and endorsements for the requested testing authority prior to being approved to attend training.
 - (3) Have attended and passed examiner training conducted by the department.
 - (4) Allow the employer to enroll him/her under the employer's Employer Pull Notice number.
 - (5) Verify that the driver has acquired an instruction permit from the department prior to testing.
 - (6) Certify that the driver successfully completed the required commercial driving test (i.e., pre-trip inspection, skills test, and road test).
 - (7) Certify that the correct type of commercial vehicle(s) was used for the driving test.
 - (8) Provide the employer with the original score sheets used during the driving test of drivers.
 - (9) Be available, between the hours of 8:00 a.m. to 5:00 p.m., with notice, to participate in the monitoring of the employer's third party testing program for the duration of the Examiner's contract and for a period of one year after contract termination.

(10) Not conduct commercial driving tests if his/her California commercial driver license is not valid or is on probation for negligent operation of a motor vehicle. Maintain his/her Examiner eligibility by conducting at least one driving test for certification purposes during a consecutive 90-day period; or attend and pass Examiner refresher training to reinstate his/her Examiner eligibility; prior to conducting a driving test.

(11) Maintain an Employer Testing Program Examiner Driver Testing Log (DL 819 ETP, New 1/2005) of all driving tests conducted, including failed driving tests, and provide a copy of the log to the Employer.

~~(12)~~ (12) Not act as an Examiner for his/her own relative, supervisor, or for himself/herself.

~~(13)~~ (13) Not sign a Certificate of Driving Skill (DL170ETP, Rev. 11/02) for his/her own relative, supervisor, or himself/herself.

~~(14)~~ (14) Not knowingly sign a false or incorrect Certificate of Driving Skill (DL170ETP, Rev. 11/02).

(h) Prior to the issuance of a Certificate of Driving Skill (DL170ETP, Rev. 11/02), the employer must ensure that the driver was:

(1) Employed by the employer at the time of training.

(2) Trained prior to taking the driving test.

(3) Employed by the employer at the time the driving test is given.

(4) Employed by the employer at the time the Certificate of Driving Skill (DL170ETP, Rev. 11/02) was approved by the Authorized Representative.

(5) Required by law to hold a commercial license to operate commercial vehicles in the course of employment with this employer.

Note: Authority cited: Section 1651, Vehicle Code. Reference: Sections 12804.9 and 15250, Vehicle Code, and Part 383, of Title 49 of the Code of Federal Regulations.

§25.21. Authorized Representative Roles and Responsibilities.

(a) The Authorized Representative must be an employee of the employer.

(b) The Authorized Representative shall be responsible for ensuring that the Certificate of Driving Skill (DL170ETP, Rev. 11/02) is accurate and complete before signing.

(c) The Authorized Representative must verify that the Examiner conducting the commercial driving test has:

(1) a current contract with the employer.

(2) maintained his/her eligibility by conducting a least one driving test during the preceeding 90 day period or successfully completed refresher training prior to conducting the driving test, and

(3) and has a valid commercial driver license with the appropriate class and endorsement, for the commercial driving test conducted at the time of the driving test.

(d) The Authorized Representative must verify that the driver being certified has received specified commercial driver training, and is an employee of the employer at the time of the training.

- (e) The Authorized Representative must verify that the driver being tested for certification purposes is an employee of the employer at the time of the driving test.
- (f) The Authorized Representative must verify that driver being certified under the employer's employer number is an employee of the employer at the time of certification.
- (g) The Authorized Representative must ensure the required test is given to the driver using a department approved route.
- (h) The Authorized Representative must not act or sign as the Examiner on the same Certificate of Driving Skill (DL170ETP, Rev. 11/02).
- (i) The Authorized Representative must not act as an Authorized Representative for his/her own relative, supervisor, or for himself or herself.

Note: Authority cited: Section 1651, Vehicle Code. Reference: Sections 12804.9 and 15250, Vehicle Code, and Part 383, of Title 49 of the Code of Federal Regulations.

§25.22. Examiner Roles and Responsibilities.

- (a) Upon adoption of these regulations, an Examiner is not authorized to conduct a commercial driving test for his/her employer until he or she does all of the following:
 - (1) For new and reinstated examiners, shall submit an Employer Testing Program Examiner Application (DL811ETP, Rev. 9/02), which is hereby incorporated by reference, or Employer Testing Program Request for Reinstatement-Examiner (DL810ETP, New 1/02), whichever is applicable, to the department. The department shall notify the Examiner applicant of their qualification to be enrolled in the department-sponsored Examiner Training class within 30 days of a complete Application. The department shall notify the examiner applicant within 30 days if the examiner fails to meet program requirements as stated in 25.22(a)(2)(6) to be an examiner. A letter will be sent to the applicant explaining the reason for the denial. If the Application is incomplete, a cover letter will be sent to the applicant within 15 days listing the items needing correction.
 - (2) For new and reinstated examiners, has held a valid commercial driver license for at least three years, with the appropriate class and endorsements.
 - (3) Currently holds a valid California commercial driver license with appropriate class and endorsements for the type of license for which the Examiner is requesting testing authority. Also, the Commercial Driver License must be consistent with the type required to drive the test vehicle.
 - (4) Has no current actions against his/her California commercial driver license that would disqualify him/her to act as an Examiner; i.e., suspended, revoked, cancelled, or on probation for negligent operation of a motor vehicle.
 - (5) Pays a ~~\$55~~ \$150 examiner training fee.
 - (6) Attends and passes a department-sponsored examiner training class to establish his/her eligibility to act as an Examiner and receives a valid Certificate of Training.
 - (A) If the Examiner does not pass the training course, the training fee is non-refundable.
 - (B) If the Examiner does not pass the training course and applies to attend the training course again, an additional ~~\$55~~ \$150 training fee shall be paid.
 - (C) If the Examiner does not attend the training class within one year of the department receiving the Employer Testing Program Examiner Application (DL811ETP, Rev. 9/02), the Examiner must submit a new Employer Testing Program Examiner Application (DL811ETP, Rev. 9/02) and pay a ~~\$55~~ \$150 training fee to enroll in the department-sponsored examiner training course. Prior training fees paid are not refundable or transferable.

(7) The Examiner must be under written contract with the employer(s) at the time he/she conducts the driving test, as required in section 25.19(f)(2) of these regulations.

(b) The Examiner shall submit a written request to the department when the Examiner seeks authority to test drivers on vehicles that require a class of license or endorsement for which the Examiner is not authorized. The department shall verify that the Examiner has held a California Commercial Driver License for three years of the appropriate class and endorsements for type of license for which the Examiner is requesting testing authority, prior to approval of the request.

(c) The Examiner shall verify that the driver has obtained an instruction permit from the department appropriate for the test vehicle prior to testing.

(d) The Examiner shall maintain on file an Employer Testing Program Examiner Driver Testing Log (DL 819 ETP, New 1/2005) of all driving tests conducted for certification purposes, which includes a record of driving tests conducted under each Employer Number the Examiner has a contract to conduct driving tests. The log must include successfully completed and failed driving tests.

(d e) The Examiner shall conduct all driving tests for certification purposes using the Commercial Driver License Driving Performance Evaluation criteria established by the department.

(f) An Examiner, upon authorization by the department to conduct commercial driving tests as defined in Title 13, Section 25.06 (b), who fails to conduct a driving test for a period of 90 consecutive days, is ineligible to conduct commercial driving tests upon the 91st day of inactivity and must submit an Employer Testing Program Request for Reinstatement-Examiner (DL 810 ETP, Rev. 8/2003), attend and pass a department sponsored Examiner refresher-training class, and be reinstated by the department before conducting additional commercial driving tests.

(e g) The Examiner shall verify that the driver is given and successfully passes a complete commercial driving test including the pre-trip inspection, skills, and road tests.

(f h) The Examiner shall verify that the correct type of commercial vehicle is used for the driving test.

(g i) An Examiner shall not act as the Authorized Representative for the same driving test that he/she conducted.

(h j) The Examiner shall complete and sign the Certificate of Driving Skill (DL170ETP, Rev. 11/02) as the Examiner.

(i k) An Examiner may work for more than one employer concurrently, as long as he/she is under written contract with each employer.

(j l) The Examiner must allow each employer to enroll him/her in the Employer's Pull Notice program during the contract period.

(k m) The Examiner shall maintain a valid medical card and ensure that a valid Medical Examination Report (DL51, Rev. 6/02), described in Section 110.04(b) of Title 13 of the California Code of Regulations, is on file with the department. An Examiner possessing a noncommercial firefighter license Class A or B must submit a Health Questionnaire (DL546, Rev. 4/2000), described in Sections 28.22 and 28.23 of Title 13 of the California Code of Regulations, to the department.

(l n) Upon the department's request, the Examiner shall be available between the hours of 8:00 a.m. to 5:00 p.m., with notice, to participate during the monitoring of the employer's third party testing program for the duration of the Examiner's contract and for one year after termination of the contract.

(~~h~~ o) The Examiner must update testing skills as needed in response to statutory and program changes. The department shall notify Examiners of statutory and program changes, and may require additional department-sponsored training to maintain eligibility.

Note: Authority cited: Section 1651, Vehicle Code. Reference: Sections 12804.9 and 15250, Vehicle Code, and Part 383, of Title 49 of the Code of Federal Regulations.